

PATENT

REMARKSDISCUSSION OF SPECIFICATION

The specification is objected because the copending application referred to on page 1, line 10 must be identified with its status upated as appropriate. In response thereto, the specification has been amended to include the required updated information.

DISCUSSION OF CLAIMS

In the Office Action, claims 1 and 2 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 11 of U.S. Patent No. 6,711,438.

In the Office Action, claims 1 and 2 are rejected under 35 U.S.C. §102(e) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over U.S. Patent Number 6,539,259 to Weinberg et al.

In the Office Action, claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Following is a discussion of the patentability of each of the pending claims.

Rejection of Claims 1 and 2 under Obviousness-Type Double Patenting

In response to the rejection of claims 1 and 2 under the judicially created doctrine of obviousness-type double patenting, a terminal disclaimer in compliance with 37 CFR Section 1.321(c) and signed by the undersigned attorney is enclosed herewith that obviates the above double patenting rejection. Accordingly, withdrawal of the rejection of claims 1 and 2 under obviousness-type double patenting is respectfully requested.

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Rejection of Claims 1 and 2 under 35 U.S.C. §102(e) or 35 U.S.C. §103(a) by Weinberg et al.

Without addressing the merits of the rejection of claims 1 and 2, in accordance with the American Inventors Protection Act, the *Weinberg et al.* reference does not qualify as prior art for a rejection under 35 U.S.C. §102(e) or 35 U.S.C. §103(a) because the present application has been filed on or after November 29, 1999 and the subject matter of the *Weinberg et al.* reference and claims 1 and 2 were, at the time the invention was made, subject to an obligation of assignment to the same organization (see section entitled "Obligation of Assignment to the Same Organization"). Accordingly, the *Weinberg et al.* reference no longer qualifies as prior art under 35 USC §102(e) or 35 U.S.C. §103(a). Furthermore, claims 3 and 4 depend from claim 1 and are similarly patentable. Accordingly, it is respectfully submitted that claims 1-4 are in condition for allowance.

Obligation of Assignment to the Same Organization

Ronald Tamura, an attorney of record for the present application, states that Application Serial Number 10/033,254 and U.S. Patent Number 6,539,259 to *Weinberg et al.* were, at the time the invention of Application Serial Number 10/033,254 was made, owned by Pacesetter, Inc. or subject to an obligation of assignment to Pacesetter, Inc. Submitted herewith are Exhibit A, which is the recorded Assignment for U.S. Patent Number 6,539,259; and Exhibit B, which is the recorded Assignment for the present application Serial Number 10/033,254.

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CONCLUSION

In light of the above claim amendments and remarks, it is respectfully submitted that the application is in condition for allowance, and an early notice of allowance is requested.

Respectfully submitted,

6/24/04

Date



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Patent Attorney for Applicant

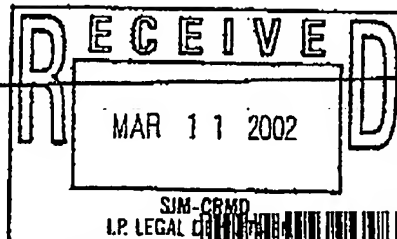
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Enclosures: Exhibits A and B
Terminal Disclaimer Under 37 CFR 1.321(c)

UNITED STATES
PATENT AND
TRADEMARK OFFICE

MARCH 07, 2002

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PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 10/25/2001

REEL/FRAME: 012450/0827
NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
MCCLURE, KELLY H.

DOC DATE: 10/23/2001

ASSIGNOR:
FLORIO, JOSEPH J.

DOC DATE: 10/25/2001

ASSIGNOR:
BORNZIN, GENE A.

DOC DATE: 10/24/2001

ASSIGNEE:
PACESETTER, INC.
15900 VALLEY VIEW COURT
SYLMAR, CALIFORNIA 91392-9221SERIAL NUMBER: 10033410
PATENT NUMBER:FILING DATE: 10/25/2001
ISSUE DATE:

EXHIBIT A

012450/0827 PAGE 2

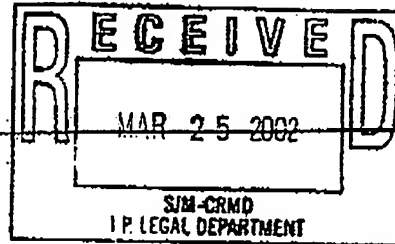
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MARCH 18, 2002

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BRIEF: (ASSIGNMENT OF ASSIGNOR'S INTEREST) RE-RECORD TO CORRECT THE RECORDATION DATE OF 12-25-01 TO 10-25-01, PREVIOUSLY RECORDED AT REEL 012441, FRAME 0501.

ASSIGNOR:
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DOC DATE: 10/23/2001

ASSIGNOR:
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DOC DATE: 10/25/2001

ASSIGNOR:
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DOC DATE: 10/24/2001

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SERIAL NUMBER: 10033254
PATENT NUMBER:

FILING DATE: 10/25/2001
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EXHIBIT B

012486/0539 PAGE 2

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